

## REMARKS

### I. Introduction

In response to the Office Action dated June 19, 2007, claims 1-19 have been amended. Claims 1-19 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

### II. Allowable Subject Matter

In paragraph 3, the Office Action indicates that the subject matter of claims 2-8 and 10-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claim. The Applicants thank the Examiner for the indication of allowable subject matter, but traverse the rejection of claims 1, 9 and 23.

### III. Claim Amendments

Applicant's attorney has made amendments to the claims as indicated above to eliminate unnecessary numerical references. These amendments were made to simplify the claims and to make them more readable, and do not affect the scope of the claims. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

### IV. Related Cases

The Examiner is respectfully reminded that this application has been identified as related to Utility Application Serial No. 09/844,401, filed April 27, 2001, by Ernest C. Chen, entitled "LAYERED MODULATION FOR DIGITAL SIGNALS," now issued as U.S. Patent 7,209,524, which application is the parent of Patent Application Serial Number 10/653,517, filed on January 16, 2007.

Please also note that the above issued patent application is related to the following applications:

- Application Serial Number 10/068,039 filed on 02-05-2002 which is Patented;

- Application Serial Number 10/068,047 filed on 02-05-2002 which is Patented;
- Application Serial Number 10/165,710 filed on 06-07-2002 which is Pending;
- Application Serial Number 10/236,414 filed on 09-06-2002 which is Pending;
- Application Serial Number 10/532,632 filed on 04-25-2005 which is Pending;
- Application Serial Number 10/691,032 filed on 10-22-2003 which is Pending;
- Application Serial Number 10/691,133 filed on 10-22-2003 which is Patented;
- Application Serial Number 10/692,491 filed on 10-24-2003 which is Pending;
- Application Serial Number 10/693,421 filed on 10-24-2003 which is Patented;
- Application Serial Number 10/913,927 filed on 08-05-2004 which is Pending;
- Application Serial Number 11/603,776 filed on 11-22-2006 which is Pending;
- Application Serial Number 11/619,173 filed on 01-02-2007 which is Pending;
- Application Serial Number 11/653,517 filed on 01-16-2007 which is Pending;
- Application Serial Number 11/655,001 filed on 01-18-2007 which is Pending; and
- Application Serial Number PCT/US02/12628 filed on 04-24-2002 which is Pending

Although the Applicants have endeavored to assure that all material information regarding the present application has been presented to the Examiner, the Examiner is encouraged to refer to these Applications to determine if any of the arguments or references cited therein would be material to any decision regarding the allowance of the claims of the instant application.

V. Office Action Double Patenting Rejection

In paragraph 2, the Office Action provisionally rejects claim(s) 1, 9, and 23 under the judicially-created doctrine of double patenting as being unpatentable over claims 1-4, 8-11 and 15-27 co-pending application serial number 10/693,135.

In discussing double patenting rejections MPEP § 804 recites:

“The “provisional” double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one

application unless that "provisional" double patenting rejection is the only rejection remaining in at least one of the applications."

The claims of the copending case 10/693,135 are apparently still unallowed. Once the claims of the copending case are allowed, the provisional double patenting rejection in this case will no longer be "provisional", and the Applicant will respond appropriately (i.e. with a terminal disclaimer or arguments why the claims of this application are not obvious over those of copending case 10/693,135. Alternatively, should the claims of this application be allowed before those of the copending 10/693,135 application, the Applicant will respond to the (now non-provisional) rejection in the copending case.

VI. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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